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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

MARIA MOYA-GUZMAN,
Plaintiff,
vs.
THE UNITED STATES OF AMERICA,
Defendant.

Case No.:

COMPLAINT FOR DAMAGES UNDER
THE FEDERAL TORT CLAIMS ACT

Personal Injury Action (28 USC §1346(b)(1))

For her complaint against the United States of America, "Defendant," Maria Moya-Guzman alleges:

1.

This claim arises under the Federal Tort Claims Act, 28 U.S.C. §2671, *et seq.* as to Defendant, United States of America (USA), which acted through its agencies and agents, the United States Department of Agriculture and employees of the agency. The United States District Court has jurisdiction over the claim under 28 USC §1346(b)(1).

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2.

At all material times, Defendant acted through agents acting within the course and scope of their employment for defendant and its agency.

3.

On or about May 16, 2016, Ms. Moya-Guzman was driving her 1999 Toyota Avalon westbound in the left lane on SW Baseline Road in Hillsboro, Oregon, crossing the intersection with SW Main Street. Tracy Robillard was driving a 2010 Chevrolet Malibu for the United States Department of Agriculture, westbound in the right lane on SW Baseline Road and made an improper lane change and struck Ms. Moya-Guzman's Toyota Avalon. The collision was significant and caused Ms. Moya-Guzman to strike her chest against the steering wheel of her Toyota Avalon injuring her as set forth below.

4.

At the time and place of this collision, Defendant was negligent in one or more of the following particulars:

- (a) In failing to obey a traffic control device in violation of ORS 811.265;
- (b) In failing to keep a proper lookout;
- (c) In failing to maintain control over the vehicle; and
- (d) In failing to yield right of way.

5.

This collision caused Ms. Moya-Guzman to sustain bodily injuries, some or all of which may be permanent. Ms. Moya-Guzman experienced significant neck, back, head, and chest pain, including upper extremity radiculopathy. These injuries are either new injuries or aggravations of previously existing conditions.

6.

As a result of defendant's negligence, Ms. Moya-Guzman incurred medical expenses of \$24,431.21.

7.

As a further result of Defendant's negligence, Ms. Moya-Guzman suffered permanent injuries resulting in pain, embarrassment, emotional distress, loss of enjoyment of normal activities and recreation, all to Ms. Moya-Guzman's non-economic damage in an amount to be determined at trial, but not to exceed \$74,183.79.

8.

If Defendant were a private person, it would be liable to Ms. Moya-Guzman.

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9.

Ms. Moya-Guzman served notice of her federal tort claim on November 2, 2017.

Defendant, through its agents, extended an offer of settlement on January 29, 2018. Under 28 U.S.C. §2675(a) the claim was deemed rejected on August 20, 2018, and this complaint is filed within 6 months as required by 28 U.S.C. §2401(b).

WHEREFORE, Ms. Moya-Guzman prays for a judgment against Defendant:

- (1) In an amount up to \$74,183.79 for her non-economic damages;
- (2) In an amount of \$20,816.21 for her economic damages;
- (3) For her attorney fees, costs and disbursements herein; and
- (4) For such other relief as the court deems appropriate.

Dated this 6th day of February 2019.

MCKEAN SMITH LLC

s/ Zach Walsh
Zach Walsh, OSB 135128
Attorney for Plaintiff